

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

DOCKET NO. 1:15-cv-13358-DJC

JEFFREY D. SUMMERS and JEFFREY'S
HOUSE, INC.,

Plaintiffs

v.

CITY OF FITCHBURG, MARK A. GOLDSTEIN,
Individually and in his Official Capacity as
Assistant City Solicitor of the City of Fitchburg,
JEFFREY P. STEPHENS, Individually and in his
Official Capacity as Health Inspector of the City of
Fitchburg, JOHN J. MORAN SR., Individually and
in his Official Capacity as Building Inspector of the
City of Fitchburg, ROBERT LANCIANI,
Individually and in his Official Capacity as
Building Commissioner of the City of Fitchburg,
PHIL JORDAN, SALLY TATA and KEVIN ROY,
Individually and in their Official Capacities as
Lieutenants and Chief of the City of Fitchburg Fire
Prevention Bureau; and Other as Yet Unnamed
Officials of the City of Fitchburg, Individually and
in their Official Capacity as Officials of the City of
Fitchburg,

Defendants.

DEFENDANTS' MOTION FOR SUMMARY JUDGMENT

Pursuant to Fed. R. Civ. P. 56 and Local Rule 56.1, the Defendants City of Fitchburg,
Mark A. Goldstein (Individually and in his official capacity as Assistant City Solicitor), Jeffrey
P. Stephens (Individually and in his official capacity as Health Inspector), John J. Moran, Sr.,
(Individually and in his official capacity as Building Inspector), Robert Lanciani (Individually
and in his official capacity as Building Commissioner), Phil Jordan, Sally Tata and Kevin Roy
(each individually and in their official capacities as employees of the Fire Department), move for

summary judgment in their favor on all counts of the Plaintiffs' Amended Complaint. See Fed. R. Civ. P. 56. As grounds, the Defendants state that the Plaintiff has not and cannot establish any claims against them and they, thus, are entitled to judgment in their favor. In support of their motion, the Defendants rely upon and incorporate by this reference the accompanying memorandum of law and the following exhibits.

Exhibit 1. Deposition of Jeffrey D. Summers

Exhibit 2. Application Packet

Exhibit 3. February 2, 2013 *Worcester Telegram and Gazette* Article

Exhibit 4. April 22, 2013 Letter

Exhibit 5. December 5, 2013 Letter

Exhibit 6. January 22, 2014 Letter

Exhibit 7. April 25, 2014 Agreement

Exhibit 8. May 5, 2014 Letter

Exhibit 9. May 30, 2014 Letter

Exhibit 10. June 9, 2014 Letter

Exhibit 11. July 10, 2014 Letter

Exhibit 12. February 20, 2015 Letter

Exhibit 13. July 28, 2015 Letter

Exhibit 14. August 12, 2015 Report

Exhibit 15. Depositions of Philip Jordan

Wherfore, the Defendants request that summary judgment enter in their favor on all counts of the Amended Complaint against them and that this Court award them such other relief as the Court deems just and proper.

REQUEST FOR ORAL ARGUMENT

Pursuant to Local Rule 7.1(E) of the Local Rules for the United States District Court for the District of Massachusetts, the Defendants request that they be afforded the opportunity to present oral argument on the issues outlined in this Motion.

Respectfully submitted,

The Defendants,
By their attorneys,

/s/ Gregor A. Pagnini _____

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Dated: November 16, 2017

CERTIFICATION PURSUANT TO L.R. 7.1(a)(2)

I certify that counsel for the Defendants conferred with Plaintiffs' counsel about the filing of the summary judgment motion and attempted in good faith to resolve or narrow the issues presented by the foregoing motion.

/s/ Gregor A. Pagnini _____
Gregor A. Pagnini, BBO#667659

Dated: November 16, 2017

CERTIFICATE OF SERVICE

I hereby certify that this document was filed through the ECF system and will therefore be sent electronically to the registered participants as identified on the Notice of Electric Filing (NEF) and paper copies will be sent this day to those participants indicated as non-registered participants.

/s/ Gregor A. Pagnini

Gregor A. Pagnini, BBO#667659

Dated: November 16, 2017